

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

YANPING WEI)	
)	
Plaintiff,)	Civil Action File No.
)	
v.)	_____
)	
DELTA AIR LINES, INC.,)	
)	(Removed from State Court of
Defendant.)	Fulton County, No. 24EV011172)
)	
)	

NOTICE OF REMOVAL

COMES NOW defendant Delta Air Lines, Inc. (“Delta” or “Defendant”), by and through its undersigned counsel of record, and pursuant to 28 U.S.C. sections 1441 and 1446 as well as Rule 81(c) of the Federal Rules of Civil Procedure, hereby gives notice of the removal of this action from the State Court of Fulton County, Georgia to the United States District Court for the Northern District of Georgia, and in support thereof respectfully show this Court as follows:

1.

On December 16, 2024, Plaintiff Yanping Wei (“Plaintiff”) filed this lawsuit in the State Court of Fulton County, Georgia, styled as above and assigned case number 24EV011172 (“the State Court Action”). In accordance with 28 U.S.C. §

1446(a), a copy of all process documents and pleadings served upon Defendant to date in the State Court Action are attached hereto as Exhibit “A.”

2.

Defendant was served on January 13, 2025, so this Notice of Removal is timely filed within thirty (30) days of Defendant’s receipt, through service, of Plaintiff’s Complaint. *See* 28 U.S.C. § 1446(b)(1). Defendant has not previously filed a Notice of Removal in this matter.

3.

Jurisdiction in the United States District Court for the Northern District of Georgia is proper under 28 U.S.C. § 1331 for federal question jurisdiction, making removal proper under 28 U.S.C. § 1441.

District Courts have jurisdiction over “all civil actions arising under the Constitution, laws, **or treaties** of the United States.” 28 U.S.C. §1331 (emphasis added). The Complaint in this case seeks damages for Plaintiff’s purported personal injuries sustained during an international flight from Shanghai, China to the United States, and specifically alleges that “Plaintiff suffered an accident under the Montreal Convention.” (Complaint, ¶ 19.) The Complaint seeks relief under the Montreal Convention exclusively with no other counts or causes of action.

The Montreal Convention is the common name for the Convention for the Unification of Certain Rules for International Carriage by Air, May 28, 1999, S. Treaty Doc. No. 106-45 (2000), and cases brought thereunder indisputably invoke federal question jurisdiction in the United States District Courts.

“A claim that arises from a treaty is a federal question. 28 U.S.C. § 1331. [Plaintiff] asserts liability under the Montreal Convention, meaning that her claim arises under federal law.” *Hardy v. Scandinavian Airlines Sys.*, 117 F.4th 252, 263 (5th Cir. 2024). *See also Erwin-Simpson v. Berhad*, 375 F. Supp. 3d 8, 11 (D. D.C. 2019) (as a treaty, Montreal Convention claims satisfy federal question jurisdiction); *Ugaz v. Am. Airlines, Inc.*, 576 F. Supp. 2d 1354, 1358 (S.D. Fla. 2008) (Montreal Convention presents a federal question); *Best v. BWIA West Indies Airways Ltd.*, 581 F. Supp. 2d 359, 362 (E.D. N.Y. 2008) (same).

4.

Pursuant to 28 U.S.C. § 1441(a), venue is proper in the Northern District of Georgia because it is the district and division within which the State Court Action was pending, i.e., Fulton County, Georgia.

5.

Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice of Removal is being filed with the Clerk of the State Court of Fulton County, Georgia,

and written notice of the filing of this Notice of Removal is being given to Plaintiff by e-mailing a copy to the attorney of record, as certified below.

6.

Based on the foregoing, all of the prerequisites for removal under 28 U.S.C. section 1441 have been satisfied. However, if any issue arises as to the propriety of the removal of this action, Defendant respectfully requests the opportunity to present further evidence and legal authority in support of its position.

WHEREFORE, defendant Delta Air Lines, Inc. requests that this Court assume jurisdiction over this action as provided by law, that the State Court of Fulton County, Georgia proceed no further with Civil Action File No. 24EV011172, and that the above-styled action be and hereby is removed to the United States District Court for the Northern District of Georgia.

Respectfully submitted this 12th day of February, 2025.

/s/ Arthur J. Park
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CERTIFICATE OF TYPE SIZE COMPLIANCE

I hereby certify that pursuant to Local Rule 5.1, the foregoing pleading is prepared in Times New Roman, 14 point.

CERTIFICATE OF SERVICE

This is to certify that I have this day served all parties of record with the foregoing NOTICE OF REMOVAL with the Clerk of Court using the CM/ECF System and by statutory electronic service (e-mail) as indicated below:

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This 12th day of February, 2025.

/s/ Arthur J. Park

Arthur J. Park